



# City Difference Maker

*Tips to help you effectively manage and lead your employees*

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## FMLA Guide for Managers

One of the more confusing federal employment issues for managers and employees to understand is the **Family and Medical Leave Act (FMLA)**. It was signed into law in 1993 and provides "eligible" employees job-protected unpaid leave for up to 12 workweeks in a 12-month period for specified family and medical reasons.

FMLA leave is unpaid. Therefore, an employee must use sick or annual leave in order to get paid. However, while the employee is on approved FMLA leave, the city will continue to pay the city's contribution towards the cost of the employee's insurance, even if the employee is on leave without pay. An employee taking FMLA-protected leave will be returned to their same or an equivalent position, at the election of the city upon return from leave.

## Eligibility

To be eligible for FMLA-protected leave, an employee must have worked for the city for a total of at least 12 months. The employee must also have been in a paid status for at least 1,250 hours during the preceding 12-month period.

## Leave Entitlement

Eligible employees may be granted up to a total of 12 workweeks (480 hours) of job-protected leave during a 12-month period. The 480-hour benefit is prorated for part-time employees. Potential reasons for an employee to qualify for Family Medical Leave:

- The birth and care of a newborn child (both parents).
- A son or daughter is being placed with the employee for adoption or foster care.
- To care for a spouse, son, daughter or parent with a serious health condition.
- To take medical leave when the employee is unable to work because of their own personal serious health condition.
- A qualifying need when the employee's spouse, son, daughter or parent is on active duty in a foreign country.
- To care for a spouse, son, daughter or parent who is a covered service member with a qualifying injury.

The FMLA describes a serious health condition as an illness, injury, impairment, or physical or mental condition that involves either inpatient care or continuing treatment by a health care provider. Inpatient care is fairly obvious. Here are some guidelines to "continuing treatment":

- Incapacity requiring over three consecutive days of absence from work and continued treatment by a health care provider.
- Continuing treatment by a health care provider for a chronic, long-term health condition that is so serious that, if not

treated, could result in incapacity of more than three days.

- Continuing treatment by or under the supervision of a health care provider for a chronic or long-term condition or disability that is incurable.
- Certain prenatal care.

## Immediate Family Members

- Spouse including common law marriage.
- Child under 18 includes the adopted or foster child of the employee, a stepchild or legal ward.
- Parent means a biological parent or someone who acted as a parent when the employee was a son or daughter. **The term does not include parents "in law."**
- Under certain circumstances other children or adults may be included in the definitions.

Managers are busy, but handling FMLA paperwork is one task that can't wait. **By law, we have five business days from the date of the leave request, or learning that leave may be FMLA-protected, to notify the employee that they may qualify for FMLA.** Please inform our office if one of the following has occurred:

- An employee has been absent over three consecutive days.
- An employee has informed a manager of the need to be absent due to illness of self or family member; to care for a newborn child; to adopt or accept a child for foster care.
- There is an intermittent pattern of absenteeism that the manager has learned may be for an FMLA qualifying reason.

Once notification of a possible FMLA event has been given, employees need to record related leave using FMLA codes. The employee then has the option of using annual, exempt or non-exempt comp time, leave without pay, or a combination thereof.

Coordinating FMLA leave with other types of time-off confuses many employees. FMLA time runs concurrently with sick leave, vacation and leave without pay. So be sure employees understand that FMLA time eats into their leave balances.

When an employee suspects that they will need FMLA leave for a planned event, we request a 30 day notice. They must still communicate with HR and their manager about time they need off. Just because they are eligible for FMLA coverage does not mean they are able to ignore communication and performance requirements from their supervisors.

We understand that the law can be confusing. The price of making an FMLA mistake is high. A simple oversight can lead to a costly, time-consuming lawsuit. We encourage you to contact **Michele Shepherd** in Human Resources if it appears that an employee may qualify for FMLA or if you have any questions.